

1-1 By: Carona S.B. No. 1388
1-2 (In the Senate - Filed March 7, 2013; March 18, 2013, read
1-3 first time and referred to Committee on Business and Commerce;
1-4 April 2, 2013, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 2, 2013,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

1-8	Yea	Nay	Absent	PNV
1-9	Carona	X		
1-10	Taylor	X		
1-11	Eltife	X		
1-12	Estes	X		
1-13	Hancock	X		
1-14	Lucio	X		
1-15	Van de Putte	X		
1-16	Watson	X		
1-17	Whitmire	X		

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1388 By: Carona

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to identity recovery services; imposing a fee.
1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-23 SECTION 1. Section 348.208, Finance Code, is amended by
1-24 amending Subsection (b) and adding Subsection (b-1) to read as
1-25 follows:
1-26 (b) A retail installment contract may include as a separate
1-27 charge an amount for:
1-28 (1) motor vehicle property damage or bodily injury
1-29 liability insurance;
1-30 (2) mechanical breakdown insurance;
1-31 (3) participation in a motor vehicle theft protection
1-32 plan;
1-33 (4) insurance to reimburse the retail buyer for the
1-34 amount computed by subtracting the proceeds of the buyer's basic
1-35 collision policy on the motor vehicle from the amount owed on the
1-36 vehicle if the vehicle has been rendered a total loss;
1-37 (5) a warranty or service contract relating to the
1-38 motor vehicle;
1-39 (6) an identity recovery service contract [~~defined by~~
1-40 ~~Section 1306.003, Occupations Code~~]; or
1-41 (7) a debt cancellation agreement if the agreement is
1-42 included as a term of a retail installment contract under Section
1-43 348.124.
1-44 (b-1) In this section, "identity recovery service contract"
1-45 means an agreement:
1-46 (1) to provide identity recovery, as defined by
1-47 Section 1304.003, Occupations Code;
1-48 (2) that is entered into for a separately stated
1-49 consideration and for a specified term; and
1-50 (3) that is financed through a retail installment
1-51 contract.
1-52 SECTION 2. Section 353.207, Finance Code, is amended by
1-53 amending Subsection (b) and adding Subsection (b-1) to read as
1-54 follows:
1-55 (b) A retail installment contract may include as a separate
1-56 charge an amount for:
1-57 (1) motor vehicle property damage or bodily injury
1-58 liability insurance;
1-59 (2) mechanical breakdown insurance;
1-60 (3) participation in a motor vehicle theft protection

2-1 plan;

2-2 (4) insurance to pay all or part of the amount computed
2-3 by subtracting the proceeds of the retail buyer's basic collision
2-4 policy on the commercial vehicle from the amount owed on the vehicle
2-5 in the event of a total loss or theft of the vehicle;

2-6 (5) a warranty or service contract relating to the
2-7 commercial vehicle;

2-8 (6) an identity recovery service contract [~~defined by~~
2-9 ~~Section 1306.003, Occupations Code~~]; or

2-10 (7) a debt cancellation agreement.

2-11 (b-1) In this section, "identity recovery service contract"
2-12 means an agreement:

2-13 (1) to provide identity recovery, as defined by
2-14 Section 1304.003, Occupations Code;

2-15 (2) that is entered into for a separately stated
2-16 consideration and for a specified term; and

2-17 (3) that is financed through a retail installment
2-18 contract.

2-19 SECTION 3. Subsections (a) and (b), Section 1304.003,
2-20 Occupations Code, are amended to read as follows:

2-21 (a) In this chapter:

2-22 (1) "Identity recovery" means a process, through a
2-23 limited power of attorney and the assistance of an identity
2-24 recovery expert, that returns the identity of an identity theft
2-25 victim to pre-identity theft event status.

2-26 (2) "Service[~~, —~~"service]" contract" means an
2-27 agreement[~~+~~

2-28 [~~(1)~~] that is entered into for a separately stated
2-29 consideration and for a specified term[~~, and~~

2-30 [~~(2)~~] under which a provider agrees to:

2-31 (A) repair, replace, or maintain a product, or
2-32 provide indemnification for the repair, replacement, or
2-33 maintenance of a product, for operational or structural failure or
2-34 damage caused by a defect in materials or workmanship or by normal
2-35 wear; or

2-36 (B) provide identity recovery, if the service
2-37 contract is financed under Chapter 348 or 353, Finance Code.

2-38 (b) A service contract described by Subsection (a)(2)(A)
2-39 may also provide for:

2-40 (1) incidental payment or indemnity under limited
2-41 circumstances, including towing, rental, and emergency road
2-42 service;

2-43 (2) the repair or replacement of a product for damage
2-44 resulting from a power surge or for accidental damage incurred in
2-45 handling the product; or

2-46 (3) identity recovery, [~~as defined by Section~~
2-47 ~~1306.002,~~] if the service contract is financed under Chapter 348 or
2-48 353, Finance Code.

2-49 SECTION 4. Subchapter C, Chapter 1304, Occupations Code, is
2-50 amended by adding Section 1304.1035 to read as follows:

2-51 Sec. 1304.1035. QUARTERLY REPORT REQUIRED; FEE. Not later
2-52 than the 30th day after the date each calendar quarter ends, a
2-53 provider must report to the department the number of service
2-54 contracts described by Section 1304.003(a)(2)(B) that were sold or
2-55 issued to consumers in this state during the most recent calendar
2-56 quarter and must submit a fee of \$1 for each contract to the
2-57 department.

2-58 SECTION 5. Section 1304.104, Occupations Code, is amended
2-59 to read as follows:

2-60 Sec. 1304.104. INFORMATION CONCERNING NUMBER OF SERVICE
2-61 CONTRACTS SOLD OR ISSUED. Information concerning the number of
2-62 service contracts sold or issued by a provider that is submitted
2-63 under Section 1304.103 or 1304.1035 is a trade secret to which
2-64 Section 552.110, Government Code, applies.

2-65 SECTION 6. Subsection (c), Section 2306.003, Occupations
2-66 Code, is amended to read as follows:

2-67 (c) A vehicle protection product may also include identity
2-68 recovery, as defined by Section 1304.003 [~~1306.002~~], if the vehicle
2-69 protection product is financed under Chapter 348 or 353, Finance

3-1 Code.

3-2 SECTION 7. Chapter 1306, Occupations Code, is repealed.

3-3 SECTION 8. (a) The changes in law made by this Act apply
3-4 only to a contract entered into or renewed on or after the effective
3-5 date of this Act. A contract entered into or renewed before the
3-6 effective date of this Act is governed by the law in effect
3-7 immediately before the effective date of this Act, and that law is
3-8 continued in effect for that purpose.

3-9 (b) The repeal of Chapter 1306, Occupations Code, by this
3-10 Act does not apply to a violation of that chapter that occurs before
3-11 the effective date of the repeal. A violation that occurs before
3-12 the effective date of the repeal is governed by the law as it
3-13 existed on the date the violation occurred, and the former law is
3-14 continued in effect for that purpose. For purposes of this
3-15 subsection, a violation occurred before the effective date of the
3-16 repeal if any element of the violation occurred before that date.

3-17 SECTION 9. This Act takes effect September 1, 2013.

3-18

* * * * *